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7 UNITED STATES DISTRICT COURT
8 DISTRICT OF NEVADA

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| 11 UNITED STATES OF AMERICA, |) | 2:09-CR-078-JCM-(RJJ) |
| 12 Plaintiff, |) | |
| 13 vs. |) | GOVERNMENT'S OPPOSITION |
| 14 SAMUEL DAVIS, |) | TO PETITION TO CONTINUE |
| 15 Defendant. |) | GOOD CAUSE SHOWN |
| |) | AFFIDAVIT IN SUPPORT |

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17 COMES NOW the United States of America, by and through DANIEL G.
18 BOGDEN, United States Attorney, and J. Gregory Damm, Assistant United States
19 Attorney, and files its GOVERNMENT'S OPPOSITION TO PETITION TO
20 CONTINUE GOOD CAUSE SHOWN AFFIDAVIT IN SUPPORT.

21 An indictment in this case was first returned on March 3, 2009. CR 1. On
22 March 6, 2009, defendant Davis first appeared in court and counsel was appointed
23 to represent him. CR 10, 14, 20. On June 22, 2009, defendant Davis indicated a
24 desire to represent himself. CR 56. On July 7, 2009, during a hearing before the
25 magistrate judge, defendant Davis indicated that he no longer wished to represent
26 himself, but desired to be represented by appointed counsel. CR 62.

1 On June 11, 2010, a Friend of the Court Brief was filed on behalf of
2 defendant Davis calling for dismissal of the instant action with prejudice. CR #
3 150. On June 16, 2010, at calendar call, nearly 16-months after the indictment,
4 defendant Davis, through his attorney, represented to the Court that he wished to
5 represent himself. CR # 153. On July 20, 2010, after a hearing before the
6 magistrate judge, defendant Davis was allowed to represent himself with his
7 previously appointed counsel appointed as stand-by counsel. CR # 158. On
8 September 3, 2010, only eleven days before calendar call, defendant Davis filed a
9 motion to continue the trial. CR # 160.

10 Defendant Davis now requests at least a 120-day continuance in order to
11 “familiarize [himself] with all of the Rules and other procedures” and to review the
12 discovery in this case. CR # 160. Defendant Davis requests a hearing before the
13 Court on his motion to continue the trial. CR # 160. Defendant Davis does not
14 indicate what efforts he has made, if any, since March 3, 2009, to review the
15 discovery and to become familiar with the procedures of the Court.

16 A trial court is afforded broad discretion in denying or granting continuances
17 in criminal cases after carefully and patiently reviewing such requests. *United*
18 *States v. Garrett*, 179 F.3d 1143, 1145 (9th Cir. 1999). The government concurs in
19 the defendant’s request for a hearing before the Court. The government believes
20 that the defendant has been dilatory in reviewing the discovery in this case and in
21 preparing himself to be able to go to trial before a jury in a timely fashion.

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CONCLUSION

WHEREFORE, based upon the foregoing, the government concurs in a forthwith hearing before the Court in order to give the defendant an opportunity to demonstrate his good faith attempts to prepare himself for trial. In the event the defendant is unable to demonstrate due diligence in preparing his case for trial, the government requests that the defendant's request to continue the trial be denied.

DATED this 7th day of September, 2010.

Respectfully submitted,

DANIEL G. BOGDEN
United States Attorney

/s/ J. Gregory Damm
J. GREGORY DAMM
Assistant United States Attorney

Certificate Of Service

I, J. Gregory Damm, hereby certify that I am an employee of the United States Department of Justice, and that on this day I served a copy of the following: GOVERNMENT'S OPPOSITION TO PETITION TO CONTINUE GOOD CAUSE SHOWN AFFIDAVIT IN SUPPORT, upon counsel for all defendants appearing in this matter via the CM/ECF system, by electronically filing said GOVERNMENT'S OPPOSITION TO PETITION TO CONTINUE GOOD CAUSE SHOWN AFFIDAVIT IN SUPPORT and mailing a copy postage prepaid to Samuel Davis, 2430 Lappin Lane, Council, Idaho 83612-5237.

Dated: September 7, 2010

/s/ J. Gregory Damm
Assistant United States Attorney
District of Nevada